

On June 14, 2002 appellant, then a 27-year-old mail handler, sustained an employment-related left foot contusion when a gate bar fell on it. The claim was also accepted for neuroma. Several recurrences were accepted. On July 15, 2003 Dr. Evan Fischer, a Board-certified orthopedic surgeon, performed an incision and drainage of the left foot. On September 5, 2003 he advised that appellant was complaining of sensitivity around the surgical scar. Dr. Fischer noted a little tenderness around the scar on physical examination. Tinel's was negative, and foot,

toe and ankle range of motion were excellent without pain, and appellant could walk heel toe without pain, do double and single toe raise, bearing all the weight of her body on her left toes without any pain whatsoever. Dr. Fischer recommended scar massage three times daily and regular shoe wear, and advised that appellant could return to full duty on September 8, 2003. In a work capacity evaluation dated September 9, 2003, he advised that maximum medical improvement had been reached and appellant could return to her usual job with no restrictions to her physical activity.

Appellant returned to full duty on September 16, 2003. On September 24, 2003 she filed a Form CA-2a, notice of recurrence, stating that she stopped work on September 20, 2003 due to aching pain. In a September 25, 2003 report, Dr. Fischer advised that appellant noted pain over her fifth metatarsal head but he found no tenderness on examination of the foot and no swelling. He advised that she could walk without pain but felt that she was protecting the surgical site. Dr. Fischer diagnosed status post incision and drainage of the left foot and left fourth metatarsalgia. He recommended that she walk in a more normal gait pattern in a well-padded shoe and advised that she could return to full duty.

In reports dated October 20, 2003, Dr. Andrew Carollo, a Board-certified orthopedic surgeon, reported that, since surgery, appellant had an abnormal gait pattern and noted findings of pain on the lateral border of the left foot and base of the fifth metatarsal. In an attending physician's report, he diagnosed left foot sprain and advised that appellant was totally disabled. In reports dated November 24 and December 19, 2003, Dr. Carollo reiterated that appellant was totally disabled due to a strain/sprain of the left foot.

By decision dated January 6, 2004, the Office denied appellant's recurrence claim on the grounds that the medical evidence was insufficient to establish that her disability was causally related to the June 14, 2002 employment injury.

On January 9, 2004 appellant requested reconsideration, stating that when she stopped work on September 19, 2003 she was limping and had sharp pain, which continued. In a January 7, 2004 report, Dr. Carollo advised that appellant was complaining of pain in the left foot with weight-bearing and walking. He recommended that she be given a job where she could sit more than stand. In a January 23, 2004 report, Dr. Carollo advised that appellant wished to return to limited duty and related that she could not stand more than 20 minutes at a time. He advised that, if she could alternate standing and sitting throughout the day, she would be able to function.

By decision dated March 24, 2004, the Office denied modification of the January 6, 2004 decision.

In a March 16, 2004 report, received on March 29, 2004, Dr. Carollo described the history of injury and surgery on July 25, 2003. He advised that his examinations demonstrated pain on digital pressure over the base of the fifth metatarsal region and tenderness over the dorsum of the foot where appellant was struck and that she ambulated with a noticeable limp and an altered gait pattern. Dr. Carollo stated that, when last seen on December 19, 2003, appellant continued to complain of left foot pain when standing or walking for any length of time. He

advised that the altered gait pattern, discomfort, and pain were secondary to the employment injury and that she could not work.

By decision dated April 16, 2004, the Office reviewed Dr. Carollo's report and denied modification of the prior decisions.

On May 4, 2004 appellant, through her attorney, requested reconsideration and submitted additional medical evidence. By decision dated October 8, 2004, the Office suspended appellant's entitlement to benefits on the grounds that she failed to attend a scheduled physical examination. In a November 4, 2004 decision, it again denied modification of the prior decisions. On September 29, 2006 the Office vacated the November 4, 2004 decision and advised appellant that a second opinion evaluation would be scheduled. On December 8, 2006 it referred appellant to Dr. Iqbal Ahmad, a Board-certified orthopedic surgeon, for a second opinion evaluation.

In a January 8, 2007 report, Dr. Ahmad reviewed the medical record and history of injury and advised that appellant was working as a teacher at that time. He reported her complaints of pain on weight-bearing with swelling, pins and needles sensation, weakness, numbness and scarring, and her report that she could not wear shoes with heels. Findings on examination included a normal gait with no difficulty standing on the toes or heels or in squatting. Weight-bearing was not painful. There was a well-healed scar on the left heel with no evidence of swelling or atrophy, and circulation and reflexes were intact. Dr. Ahmad diagnosed contusion of left foot with incision and drainage and advised that there was no need for further treatment, therapy, tests, injections or surgery. He concluded that appellant's examination and medical records did not establish any worsening of her condition that caused her to stop working on September 20, 2003. Dr. Ahmad advised that she could return to her regular duties as a mail handler.

By decision dated April 18, 2007, the Office denied appellant's claim that she sustained a recurrence of disability on September 20, 2003.

On April 25, 2007 appellant, through her attorney, requested a hearing. At the August 8, 2007 hearing, appellant testified that she began part-time work at the employing establishment in 1993 and began full-time work as a mail handler on June 7, 2002. She described the June 14, 2002 employment injury, and testified that, while working on September 19, 2003, her left foot became very painful and she was unable to return to work. Appellant returned to light duty in March 2004 and resigned on February 28, 2005. She currently taught school where she could sit at will. Appellant stated that her foot continued to hurt when walking long distances and that she could not jog or exercise on a treadmill.

In an October 22, 2007 decision, an Office hearing representative affirmed the April 18, 2007 decision.

LEGAL PRECEDENT

Section 10.5(f) of Office regulations defines the term "disability" as the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time

of injury.¹ Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in the Act.² When, however, the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, the employee is entitled to compensation for any loss of wage-earning capacity resulting from the employment injury.³ Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁴ A recurrence of medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a “need for further medical treatment after release from treatment,” nor is an examination without treatment.⁵

The employee has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury and should submit a detailed medical report.⁶ To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.⁷

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized medical opinion of whether there is a causal relationship between the claimant’s diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

¹ 20 C.F.R. § 10.5(f); *see W.P.*, 59 ECAB ____ (Docket No. 08-202, May 8, 2008).

² *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

³ *Roberta L. Kaaumoana*, 54 ECAB 150 (2002).

⁴ *Tammy L. Medley*, 55 ECAB 182 (2003).

⁵ 20 C.F.R. § 10.5(y); *see Mary A. Ceglia*, 55 ECAB 626 (2004).

⁶ 20 C.F.R. § 10.404(b).

⁷ *Jennifer Atkerson*, 55 ECAB 317 (2004).

⁸ *Id.*

⁹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS

The Board finds that appellant has not established that she sustained a recurrence of disability on September 20, 2003 caused by her accepted left foot condition. The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.¹⁰ Medical opinion evidence must be of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹¹ Appellant sustained injury on June 14, 2002. Following surgery on July 15, 2003 she was returned to her regular work without any job restrictions.

Appellant stopped work on September 20, 2003, alleging that she was disabled due to pain. In a September 25, 2003 report, Dr. Fischer advised that appellant complained of pain over her fifth metatarsal head. On examination, however, he found no tenderness or swelling, noting that she could walk without pain. Dr. Fischer recommended that she walk in a more normal gait pattern in a well-padded shoe and advised that she could return to full duty. This report does not support her claim of total disability for work as of September 20, 2003. Appellant did not return to see Dr. Fischer but began treatment with Dr. Carollo. On October 20, 2003 Dr. Carollo advised that appellant was totally disabled, noting that she had pain on the lateral border of the left foot and at the base of the fifth metatarsal and had an abnormal gait since surgery. Dr. Carollo diagnosed a left foot sprain caused by the employment injury. There is no indication, however, that he was aware of the physical requirements of appellant's job or the actual duties she performed as a mail handler. Dr. Carollo did not explain why appellant's complaints of pain and tenderness disabled her from working or address how her symptoms related to her accepted injury or surgery. A foot sprain has not been accepted as employment related. The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.¹²

In a January 8, 2007 report, Dr. Ahmad performed a second opinion evaluation for the Office. He reviewed the complete medical record and provided findings on physical examination. Dr. Ahmad advised that there was no need for further treatment and concluded that, based on his examination and his review of the medical records, appellant did not establish a worsening of her condition that caused her to stop work on September 20, 2003. He noted that she could return to her regular duties as a mail handler.

It is appellant's burden of proof to submit medical evidence to establish a recurrence of disability due to her accepted injury. A mere conclusion without the necessary medical rationale explaining how and why the physician believes that a claimant's accepted exposure would result in a diagnosed condition is not sufficient to meet the claimant's burden of proof. The medical

¹⁰ *Sandra D. Pruitt*, 57 ECAB 126 (2005).

¹¹ *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹² *See Albert C. Brown*, 52 ECAB 152 (2000).

evidence must also include rationale explaining how the physician reached the conclusion he or she is supporting.¹³ The Board finds that Dr. Carollo's opinion that appellant became disabled for work is of insufficient rationale to establish that her disability beginning September 20, 2003 was due to residuals of her accepted condition.¹⁴ The record does not contain a medical report providing a reasoned medical opinion that her disability was caused by the accepted left foot condition or neuroma.¹⁵ As appellant did not submit medical evidence sufficient to establish her claim, she did not meet her burden of proof to establish that she sustained a recurrence of total disability on September 20, 2003, and the Office properly denied her claim.¹⁶

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a recurrence of disability on September 20, 2003 causally related to her June 14, 2002 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 22, 2007 be affirmed.

Issued: November 13, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹³ *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹⁴ *Cecelia M. Corley*, 56 ECAB 662 (2005).

¹⁵ *Id.*

¹⁶ *Tammy L. Medley*, *supra* note 4.